

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

|                             |   |  |  |
|-----------------------------|---|--|--|
| <b>LESLIE R. KELLY,</b>     | ) |  |  |
|                             | ) |  |  |
| v.                          | ) |  |  |
|                             | ) |  |  |
| <b>MARTY SAPKO, et al.,</b> | ) |  |  |
| <b>Defendants.</b>          | ) |  |  |

**Plaintiff,**

**Defendants.**

**C.A. No. 03-368 Erie  
District Judge McLaughlin  
Magistrate Judge Baxter**

**NOTICE**

In light of Plaintiff's motion for the appointment of counsel, this Court has requested review of this case by local attorney, Richard Lanzillo, Esquire, of The Knox Firm. Title 28 section 1915(d) does not authorize the court to "appoint" counsel - rather, it authorizes the court to "request" an attorney to represent a litigant unable to employ counsel. Mallard v. United States District Court, 490 U.S. 296 (1989) (recognizing this distinction). See also Tabron v. Grace, 6 F.3d 147 (3d. Cir. 1993) (identifying factors to be considered by the district courts in exercising their discretion whether to "appoint" counsel pursuant to 28 U.S.C. § 1915(d)).

Attorney Lanzillo has agreed to review the file and contact Plaintiff in an effort to set up a representation agreement. This Court has no authority to request that Attorney Lanzillo represent Plaintiff for no charge. Should Plaintiff and Attorney Lanzillo fail to come to a representation agreement, Plaintiff will need to represent himself in this matter.

S/ Susan Paradise Baxter  
SUSAN PARADISE BAXTER  
Chief United States Magistrate Judge

Dated: July 18, 2005